

EXHIBIT C

Page 1

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY
CASE NO. 12-12020(MG)

- - -
IN RE: :
: (PENDING IN THE
RESIDENTIAL CAPITAL, LLC, : SOUTHERN DISTRICT OF
et al, : NEW YORK)
: CHAPTER 11
Debtors :
:
:
:
- - -

DEPOSITION UNDER ORAL EXAMINATION OF
FRANK REED
Mount Laurel, New Jersey
THURSDAY, AUGUST 14, 2014

- - -
REPORTED BY: HEATHER A. KIRSCH, CCR
- - -

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1 * * *

2 (It is agreed by and between counsel
3 for the respective parties that the signing,
4 sealing, certification and filing of the
5 deposition be waived and that all
6 objections, except as to the form of the
7 question, be reserved until the time of
8 trial.)

9 * * *

10 FRANK REED, residing at 817 Matlack
11 Drive, Moorestown, New Jersey 08057, after
12 having been first duly sworn, was examined
13 and testified as follows:

14 * * *

15

16 BY MS. HAGER:

17 Q Good morning, Mr. Reed. We're here on your
18 deposition, which was continued from yesterday.
19 I still have some questions, so let's get
20 started. You understand that you're under oath
21 again this morning?

22 A Yes.

23 Q And all the same ground rules that we
24 talked about yesterday will apply today as well.
25 Since the default on the mortgage have you paid

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1 the real estate taxes on the property?

2 A I don't know if we have. I know that
3 at some point we stopped, but I don't know at
4 what point that happened.

5 Q Was your wife paying the real estate taxes?

6 A I believe so because that's part of
7 the bills that would come in.

8 Q Well, were taxes and insurance included in
9 your monthly mortgage payment initially?

10 A I don't remember.

11 Q Do you pay for your property insurance?

12 A Yes. Yes.

13 Q When was the last time you made a payment
14 on the property insurance?

15 A That's been -- that's been a while. I
16 don't know.

17 Q A year?

18 A I don't know. I can't speculate.

19 Q Who is your property insurance with?

20 A I thought it was Chubb. I know there
21 was another one, I don't remember it.

22 Q How much money have you saved in mortgage
23 payments since you stopped paying the monthly
24 mortgage payment?

25 A I don't understand the question.

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1 Q Sure. Well, you haven't been paying on the
2 mortgage since 2008, right?

3 A Yes, I think. I think -- remember
4 yesterday, I don't know when -- when that
5 actually stopped.

6 Q Well, you said you didn't know the exact
7 month, but we can agree that it was --

8 A Oh, 2008, yes.

9 Q Okay. So you haven't paid on the mortgage
10 since 2008. Have you saved the money that you
11 would have otherwise been paying to the
12 servicer?

13 A No, because I did not earn the money
14 to then save it.

15 Q What do you mean that you haven't earned
16 it?

17 A I mean, I wasn't able to continue in
18 my flipping business or pursuit and I didn't
19 continue to earn the money that I would have,
20 then I would save it by not spending it on the
21 mortgage. If that was -- in other words, I
22 would have to have had it to save it. The
23 meaning of the word save means I would have had
24 it, but not spent it.

25 Q So when you were talking yesterday a little

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1 bit about the flipping business, you mentioned
2 that part of that was that you would do the work
3 yourself to save on the labor costs, right?

4 A Yes.

5 Q And then you would obviously pay for the
6 materials so that would be an out of pocket
7 expense, right?

8 A Yes.

9 Q But you would do the work yourself and you
10 would recognize that as a savings when you sold
11 the house, right?

12 A And earnings, maybe I don't understand
13 exactly what your meaning is.

14 Q Right. So I'll just rephrase that. So
15 when you were buying and selling houses you
16 would do the work yourself as opposed to paying
17 somebody else so that you retained the money
18 that you would otherwise be paying somebody to
19 do the work?

20 A Right. I would have earned it from
21 the sale, but not spent it out to someone else.

22 Q Right. And since your injury though have
23 you been able to do construction work?

24 A No.

25 Q So when was the last time that you were

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1 able to work on a house and fix it up and sell
2 it on your own?

3 A On my own it would have been
4 pre-injury.

5 Q Right. So is it accurate to say that since
6 April of 2008 when you were injured that that
7 injury has effectively stopped you from being
8 able to engage in that business?

9 A No. It, as I said yesterday, it's a
10 factor. It's an element. It's a percentage. I
11 can still lay down on my, you know, as you
12 witnessed, I can still lay or sit, recline in
13 odd positions. I can still do the drawings,
14 submit for permits.

15 I actually, my need for money to continue
16 that business would increase because I would
17 have to -- or those pursuits would increase
18 because I would now have to pay for labor, but I
19 wasn't necessarily have to hire subcontractors
20 either.

21 There's a provision in the law that when
22 you buy houses for yourself to live in, you can
23 have people work on those houses under your
24 permitting and they can do the work. So there
25 would be an increase in cost, but it wouldn't be

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1 say equivalent to a builder who is using full
2 blown subcontractors.

3 Q So we talked yesterday about the verbal
4 offer that came in right after you put the house
5 on the market in 2007 before the Jacobs written
6 offer. Do you remember us having that
7 conversation yesterday?

8 A I do. I do.

9 Q Okay. And I asked you to think about it
10 last night and see whether you could recall any
11 more information. Did you have a chance to
12 think about it?

13 A I did not actually think about it.

14 Q Okay. Well, as we sit here now do you have
15 any further recollection about that verbal
16 offer?

17 A I vaguely remember a man in our
18 kitchen at the -- at the -- at an open house
19 being enthusiastic about the house. But I could
20 not pick up out of a lineup and I think that's
21 possibly the origin of that offer. I cannot
22 even tell you the dollar amount.

23 As I said I think yesterday, it's something
24 that if you had put a gun to my head and asked
25 me about it, I would not have even remembered it

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1 unless prompted to think about it. And it's
2 still as elusive in my mind as a dream upon
3 waking in the morning.

4 Q But now that we've talked about it a little
5 do you remember though knowing that it was less
6 than the asking price?

7 A Barb, I don't remember the specifics.
8 I may infer that it might have been because it
9 was newly listed and unless someone asked me or
10 offered the full value or full listing price, I
11 may have declined it, but I don't remember
12 anything about it other than that. I mean, I
13 can't speak authoritatively about it. I don't
14 want to mislead you.

15 Q All right. So I had asked that in
16 connection with the deposition that you bring
17 some documents with you, specifically everything
18 that we had requested in the Request For
19 Production of Documents.

20 Yesterday when we started the deposition
21 you did show me some documents that you had with
22 you, but frankly I already had all those.
23 Essentially, it was just the submission for the
24 independent foreclosure review. The only
25 exception was one e-mail. And when we came back

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1 documentation that you ever applied for a loan.

2 Were you aware of that before today?

3 A As I said, it's -- it's consciously
4 aware -- no, maybe this was shown to me during
5 the time of the litigation of the State Law
6 Division case, but I don't have an answer for
7 why or what they have or how they do or do not
8 have it.

9 Q So did you ever submit any documents to
10 Allied Mortgage?

11 A I believe it was a verbal thing that
12 we -- they took information from us.

13 Q And that was in March of 2008?

14 A I can't -- it was in the beginning of
15 '08 some time.

16 Q Well, according to the Tartamosa letter, he
17 said there were some conversations I guess in
18 March of 2008, right? He worked on obtaining
19 financing for you, does that sound familiar?

20 A As I said, I believe some time early
21 in 2008, March.

22 Q So March 2008 was after the Jacobs deal
23 fell through, right?

24 A I don't know. And I don't know if it
25 was March. I don't know if it could have been

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1 Q Did they talk to you about reinstatement?

2 A Oh, I don't remember. I don't
3 remember.

4 Q Do you know what reinstatement means?

5 A I believe I understand the term now to
6 mean when you pay your -- you pay the arrears.

7 Q Well, at some point in 2008 you learned
8 that you could reinstate the loan, didn't you?

9 A I don't know when I learned that. I
10 remember meeting with someone from GMAC at a --
11 at an event even. We addressed these issues
12 there and we decided to go forward with a loan
13 modification, but I think that's the real -- the
14 real first time. And it was not that long
15 afterwards, maybe it was July of August or
16 something like that. I'm pretty sure 2008,
17 summertime, late summer maybe.

18 Q And when you're talking about late summer,
19 are you referring to that meeting that you had
20 with GMAC?

21 A Yes.

22 Q At that point though why didn't you just
23 bring the loan current?

24 A We did the loan modification.

25 Q Well, you had the money to bring it

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1 current, right?

2 A I believe we had enough money to bring
3 it current at that time.

4 Q Well, why didn't you?

5 A We did the loan modification.

6 Q What were the terms of the loan
7 modification?

8 A It was a reduced payment. I don't
9 know how much, perhaps it's in your client's
10 files. Maybe I should subpoena it and see if
11 they do have it.

12 Q Who was the person you met with?

13 A A fellow named Mark.

14 Q Was it a face-to-face meeting?

15 A Yes.

16 Q Where?

17 A I'm pretty sure that's who I met. It
18 was -- let me think about that. Let me think
19 about that, where was that? It was at a public
20 space. I don't remember if it was a hotel, if
21 it was a college. I can't remember, a library.
22 It was some event that was sponsored by -- by an
23 organization. I can't remember now.

24 Q Was it a meeting that you had set up with
25 Mark or was he just randomly there?

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1 I would -- I would find if I found
2 something in the documents that didn't seem
3 right after close inspection, I guess that's
4 when I would know. But I don't -- I don't have
5 anything at the moment.

6 Q Let me ask it this way, you were there for
7 Miss Carter's deposition, right?

8 A Uh-huh.

9 Q You were there for the whole time, right?

10 A Yes.

11 Q And you heard me asking her pretty detailed
12 questions about this entire exhibit, didn't you?

13 A I hate to say it, I didn't -- I heard
14 it, but I did not listen to it or correlate it
15 or process it.

16 Q Let me ask it this way, you're aware that
17 the listing price for Matlack changed on a
18 number of occasions?

19 A Yes.

20 Q And you're aware that it actually
21 decreased?

22 A Yes.

23 Q Every time that there was a change, it
24 decreased, right?

25 A I think so, yes.

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1 BY MS. HAGER:

2 Q I'm showing you what was just marked as
3 Reed-11. Do you recognize that document?

4 A I don't recognize the document itself,
5 but I recognize the embodiment of an agreement
6 here that was made in the summer of 2008.

7 Q So this document that was just marked as
8 Reed-11 is a Contract For Sale for 817 Matlack
9 and it's between Mrs. Reed and Mark Weaver.
10 Would you agree with me on that?

11 A Yes.

12 Q And the date of the agreement is August
13 25th, 2008, would you agree?

14 A Yes. It's on the document.

15 Q Okay. Now, what was the agreed upon sales
16 price?

17 A I think it was a million eight, wasn't
18 it? Where was it in the document.

19 Q Sure. On page 2, paragraph 6.

20 A Yes.

21 Q A million eight?

22 A Yes.

23 Q Okay. And you agreed to sell Matlack for
24 that price, right?

25 A I did.

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1 clarify some of this, I don't know how relevant
2 it is -- he was supposed to close on the 29th of
3 September and I believe he missed that
4 settlement. Then he communicated with the title
5 company, I'm reading from my own e-mail, that he
6 was going to close, I guess four days later on
7 October 3rd and he didn't do it.

8 "I think he wanted to close by noon today,"
9 my e-mail says and my e-mail is dated or timed
10 at 2:00 in the afternoon.

11 And so he missed I think two closings,
12 September 29th and the one that he asked for to
13 be moved to the 3rd. And then we entered into
14 this agreement.

15 Q The addendum?

16 A The addendum.

17 Q And on the addendum it indicates that on
18 paragraph 3, numbered paragraph 3, a good faith
19 deposit was to be wired to Infinity Title Agency
20 by October 24th, 2008. Did that happen?

21 A It did.

22 Q How much?

23 A I don't know when it did.

24 Q What was the amount of the good faith
25 deposit?

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1 A \$50,000.

2 Q So was that deposited?

3 A I believe it eventually was received.

4 Q When you say eventually what do you mean by
5 that?

6 A I don't know if it came on the 24th of
7 October.

8 Q Okay. But so that deposit was received by
9 you and your wife, right?

10 A It went to -- well, it went to
11 Infinity Title.

12 Q But it eventually went to you and your
13 wife?

14 A Yes.

15 Q And you retained that?

16 A I did.

17 Q Never gave it back?

18 A Correct.

19 Q Okay. All right. But he still didn't
20 settle on November 21st?

21 A No.

22 Q Right?

23 A No, he did not.

24 Q So what did happen on November 21st, 2008,
25 do you remember?

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1 A The day that Mr. Cooper was supposed
2 to settle, on a Friday, I believe.

3 Q What did happen on that day with respect to
4 Mr. Cooper?

5 A He did not settle.

6 Q Did you enter into a Lease Agreement With
7 Option to Purchase?

8 A I believe the next morning we did.

9 MS. HAGER: Okay. Can we have this
10 document marked?

11 MR. REED: A Lease Agreement With a
12 Purchase Option, I think that's what it was
13 titled.

14 MS. HAGER: Can we have this marked as
15 14?

16

17 * * *

18 (Whereupon, Exhibit Reed-14 was marked
19 for identification.)

20 * * *

21

22 MR. REED: Can I take one moment or is
23 there a question pending?

24 MS. HAGER: Sure. No.

25

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1 * * *

2 (Whereupon, a brief recess was taken.)

3 * * *

4

5 BY MS. HAGER:

6 Q So when you and your wife entered into the
7 agreement with Mr. Weaver in August of 2008, did
8 he make a deposit at that time?

9 A 2008, November?

10 Q No, the August agreement. I'm looking at
11 Reed-11, that agreement says --

12 A No.

13 Q -- that he was to make a \$50,000 deposit
14 upon the signing of the agreement?

15 A He did not.

16 Q Besides the \$50,000 deposit that we talked
17 about before we went off the record, did he make
18 any other deposit prior to that?

19 A No.

20 Q Okay. So showing you what was just marked
21 as Reed-14, you take a look at that and let me
22 know if you recognize that document?

23 A It appears to be the Release Agreement
24 With an Option to Purchase. It was drafted and
25 presented by Mr. Cooper to me.

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1 Q And did you sign this agreement?

2 A I did.

3 Q Okay. And what was the nature of this
4 agreement?

5 A It was a lease.

6 Q So he didn't settle on November 21st,
7 right?

8 A Correct.

9 Q That was supposed to have been his extended
10 closing date, right?

11 A That is correct.

12 Q And he did not have cash to close on that
13 day, so he didn't close, is that right?

14 A That's correct.

15 Q Okay. So instead of bringing the cash to
16 closing, he presents you with this agreement and
17 basically says to you hey, I don't have the
18 money right now, I'm going to be getting it,
19 will you agree to lease the property to me while
20 I'm waiting on the money. Is that the way it
21 happened?

22 A That's correct.

23 Q Okay. So you agree to this arrangement
24 whereby Mr. Weaver is going to move into your
25 house and you guys are going to move out, right?

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1 A I agreed to it. My wife did not,
2 which is a matter of contention to this day.

3 Q All right. So he paid you \$400,000 for the
4 option to purchase the property, right?

5 A He did.

6 Q All right. And you actually did receive
7 that money?

8 A I did.

9 Q And it went into your mother's bank
10 account?

11 A That's right.

12 Q Okay. But then your mother gave it to you,
13 so effectively you received it?

14 A The reason that it went into my
15 mother's account, for the record, for whoever
16 looks at this in posterity, I did not trust
17 Mr. Cooper. Mr. Cooper wanted to write a check
18 that night, he wanted to wire the money the
19 following week and we refused all those or I
20 refused those offers. My wife never accepted
21 any of this.

22 And Mr. Cooper -- Mr. Cooper it turns out
23 had a bank account at the same bank my mother
24 had. And the bank was open Saturday morning, he
25 wanted to move in by Monday. He wanted to be in

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1 for Thanksgiving. So the bank would do an
2 internal transfer from Mr. Cooper's account to
3 my mother's account.

4 Q And so to your knowledge, did he, in fact,
5 move into the property?

6 A Yes.

7 Q Okay. And according to this agreement,
8 Reed-14, he had agreed to pay you \$25,000 a
9 month for rent on the first of each month. Did
10 he make that payment for December of 2008?

11 A He did, reluctantly. And he -- shall
12 I tell you the source of the payment?

13 Q Well, I just want to know if you received
14 it?

15 A Yes.

16 Q And it was a good check?

17 A It was not a check.

18 Q Okay. It was cash?

19 A It was wired from the \$50,000 that was
20 deposited at the title company. So the 50,000
21 that was eventually given, when was it September
22 or October -- he didn't give it upon the signing
23 of the contract, but then there was an addendum
24 that demanded it, he then put that money in with
25 the title company.

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1 So roll around December 1st, just days
2 after I move my family out, Mr. Cooper is due
3 the rent, according to the document he drafted
4 and proposed to me. He doesn't pay it. He
5 doesn't answer the calls. He doesn't answer the
6 door.

7 So I don't remember at what point in
8 December, but he finally agrees when I tell him
9 you're not going -- I'm not going to ever
10 release the security deposit, we're going to
11 fight over that. If you don't have the money
12 for the rent, you might as well release it from
13 the security deposit and get good use out of it,
14 which he did.

15 Q So did he pay January 2009?

16 A In the same methodology.

17 Q Okay. Out of the 50,000?

18 A Yes.

19 Q Leaving none of that money on deposit?

20 A Correct.

21 Q Then did he pay February 2009?

22 A No.

23 Q Did he make any payments thereafter?

24 A No.

25 Q Okay. So eventually you had to evict him?

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1 A Correct.

2 Q But you did get from him the 400,000, which
3 you retained?

4 A Correct.

5 Q Okay.

6 A Well, I didn't -- I retained it and
7 then I put it back on the house, by paying off
8 other liens.

9 Q But you never gave it back to him?

10 A Correct.

11 Q You got him successfully evicted from the
12 property?

13 A Yes.

14 Q Okay. Now, when you say you paid off other
15 liens, is that how you paid off the second
16 mortgage?

17 A Part -- I believe part of that it
18 commingled at the time, but yes.

19 Q What else did you use it for?

20 A I thought there was another lien on
21 the property, I'm not sure. I have to
22 investigate that. I used the remainder plus
23 cash on hand. I mean, we wound up living in a
24 hotel and facing more repairs on the property
25 that we were going to than I thought.

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1 Q You mentioned that he wouldn't come to the
2 door. Were you still in New Jersey?

3 A I think Louise went to go look for him
4 or Dave Louis again. I was at that point in
5 December he was -- we were in Virginia.

6 Q All right. Why didn't you use any of the
7 400,000 to pay down the arrearage to GMAC?

8 A Because we no longer -- it was still
9 in the air. They never sent me back the
10 agreement to finish -- to say what my new
11 payments were going to be.

12 Q Did you ever call GMAC and say hey, I now
13 have the money to bring this current, what's the
14 status?

15 A I believe that I did because I -- I'm
16 pretty sure I did because that's why I paid off
17 the second loan.

18 Q So the agreement, the lease agreement with
19 Mr. Weaver was at one point extended until
20 August 1st, 2009, right?

21 A Yes.

22 Q Okay. And you were okay with that, as long
23 as he was making his monthly rental payments?

24 A Who wouldn't be?

25 Q So when was it that you evicted Mr. Weaver?

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1 besides Louis Carter.

2 Q But the offer is actually from Mr. and Mrs.
3 Roccisiano?

4 A Yes.

5 Q Who were using another agent at B.T. Edgar?

6 A Yes.

7 Q Naoji Moriuchi?

8 A Yes.

9 Q Their offer was for 1,300,000, right?

10 A Yes. I'm saying yes to the document.
11 I was just looking at the time the dates, yes.
12 I believe so, yes.

13 Q And what is the date of this offer?

14 A March 20th, 2010.

15 Q Okay. Did you accept this offer?

16 A No, I don't think we did.

17 Q Okay. What was the listing price at this
18 time, do you remember?

19 A I don't know if I'm reading this
20 right. Again the only date on these things on
21 the MLS sheets that you showed Miss Carter in
22 her deposition reflecting price changes are on
23 the bottom and they say created date and
24 created: A date and time, it appears 1,780,000.

25 Q And notwithstanding what it shows on that

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1 Does that, the context of that message
2 sound familiar to you at all?

3 A Yes. We -- as I said, now that you're
4 talking about Kevin, I think these people were
5 moving from another state to New Jersey or
6 contemplating staying versus moving, something
7 of that nature. Now -- now it's amazing how
8 this helps. They proposed, they offered, I
9 didn't realize they re-offered and I must have
10 had a copy of a contract with various provisions
11 that we were contemplating.

12 Now, you mentioned rents even and things
13 like that, possibly contemplated even renting
14 the place to them I can't tell you for a fact,
15 but I'm hearing now and it sounds familiar.

16 Q And the response to Mr. Aberant's e-mail
17 from Mr. Roccisano, the potential buyer, is
18 essentially that he's got to discontinue
19 negotiations because he's resuming an old
20 position in Louisville.

21 A Okay. I'm sorry my mind was still
22 thinking in a momentum like way about some of
23 this coming back. Could you please say what you
24 said again?

25 MS. HAGER: Can you read that back?

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1 * * *

2 (Whereupon, the court reporter read
3 back the previous testimony.)

4 * * *

5

6 BY MS. HAGER:

7 Q Does that sound familiar?

8 A I remember it wasn't us that stopped
9 that contract.

10 Q I'm sorry?

11 A I remember although there wasn't an
12 agreement yet met, a meeting of the minds,
13 because I still had probably not yet locked
14 myself in the room to go review all the things
15 that they wanted, whatever those were, I now
16 recollect that the Roccisano's did not move
17 forward.

18 Q But this was -- this was more than just an
19 offer. You were really moving towards getting
20 close to an agreement, right?

21 A It's nothing -- I mean, it's a more
22 detailed offer, but it's an offer none the less.
23 There were a lot of moving parts. I mean, I'm
24 just remembering that now from what you're
25 saying here. We had just evicted someone who

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1 MS. HAGER: So I want to have marked
2 as Exhibit 19 an e-mail from Nina Singh to
3 Louise Carter.

4

5 * * *

6 (Whereupon, Exhibit Reed-19 was marked
7 for identification.)

8 * * *

9

10 BY MS. HAGER:

11 Q So showing you what's been marked as
12 Reed-19, have you seen that before?

13 A Yes.

14 Q All right. So that's an e-mail from Nina
15 Singh to Louise Carter that Louise Carter
16 forwarded to you on May 9th, 2011, right?

17 A Yes.

18 Q And this is an offer, a pocket -- excuse
19 me, it's an offer on a pocket listing. Do you
20 know what that means?

21 A I believe it means that Louise for
22 some reason it was not listed on the MLS at that
23 moment in time.

24 Q What do you mean for some reason?

25 A Well, maybe it had expired and we had

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1 not yet re-signed it. I don't know why it
2 wasn't at that moment.

3 Q So you got an offer when the house was not
4 on the market for 1.1 million, right?

5 A Uh-huh.

6 Q Is that a yes?

7 A Yes.

8 Q And what did you do in response to the
9 offer?

10 A I believe -- I believe we -- when was
11 this? May -- I think I talked to my attorney
12 about this offer.

13 Q Did you accept it?

14 A I could not.

15 Q Why could you not?

16 A Because the -- the matter was pending
17 in the Law Division with GMAC. What was due or
18 not due was undetermined under the note and the
19 modification that was supposed to go through,
20 but didn't. And that's why this woman said she
21 wanted to know about the dealings with the bank.
22 And if I'm not mistaken, the 1.1, you know,
23 wasn't enough to cover the note and commissions
24 and what they call the tax, millionaire's tax or
25 whatever the heck it is. So it was financially,

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1 mathematically, I think a problem. And also, it
2 was unresolved with GMAC as it had outstanding
3 litigation at that time.

4 Q And she doesn't say anywhere in this e-mail
5 that the offer is what it is because of the
6 foreclosure, does she?

7 A That's what Louise told me.

8 Q Okay.

9 A And she was her agent, just like
10 Mr. Moriuchi, Naoji Moriuchi.

11 MS. HAGER: Can I have this marked as
12 20?

13

14 * * *

15 (Whereupon, Exhibit Reed-20 was marked
16 for identification.)

17 * * *

18

19 BY MS. HAGER:

20 Q I'm showing you what was marked as Reed-20.
21 This is a credit report, the first page is a
22 cover letter from Brian Fleischer to your former
23 lawyer, Jeffrey Walters, enclosing the credit
24 report. The cover letter is dated January 13th,
25 2012, but the credit report is dated November

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1 What was that TD Bank account for?

2 A Probably one of my rental properties.

3 Q Would you agree that you were past due with
4 that mortgage at some point?

5 A I cannot -- I cannot agree. I don't
6 know if this is accurate or not. I don't know
7 what it is for sure, where it came from. It
8 says Transunion, I don't know of the accuracy of
9 it. Credit reports are known to be wrong.

10 Q Okay.

11 MR. REED: May I use the bathroom
12 again? You mind?

13 MS. HAGER: Sure.

14 MR. REED: And here is -- do we need
15 the listing?

16 MS. HAGER: You can just put them all
17 in a pile. You can go off the record.

18

19 * * *

20 (Whereupon, a brief recess was taken.)

21 * * *

22

23 BY MS. HAGER:

24 Q I think you had told me yesterday that your
25 mother's name is Georgiana, is that right?

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1 A Yes.

2 Q Is it Georgiana Leona Gardner?

3 A Yes.

4 Q Was there a time in 2008 that she wired
5 some money to Homecomings Financial on your
6 behalf?

7 A I think that's the second mortgage
8 company. I think that's the lien. I think.

9 Q The second mortgage on Matlack?

10 A Yes.

11 Q Okay. Does it sound familiar to you that
12 the amount she wired was 167,000?

13 A I don't remember. I thought it was a
14 couple hundred thousand dollars.

15 Q Okay. So you testified about TD Bank and
16 Allied not making a loan on Matlack. Were you
17 able to get other financing though on other
18 properties?

19 A I think I said I think in 2008 I may
20 have re-fi'd some of my rental properties, but I
21 don't remember when.

22 Q June 5th, 2008 sound familiar as to when --

23 A Yeah.

24 Q -- you had taken out a loan with TD Bank?

25 A Could be, yeah.

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1 Q For \$665,000?

2 A Sounds familiar, yes.

3 Q Okay. So it wasn't that TD wouldn't lend
4 to you at all, right?

5 A That's correct.

6 Q Now, this loan for \$665,000 with TD in June
7 of 2008, when did you start the application
8 process for that loan?

9 A I don't remember.

10 Q You stated in your Interrogatory responses
11 in the Law Division case that you had satisfied
12 all of the lender requirements for the cash out
13 refinance referring presumably to TD and/or
14 Allied. What were the lender requirements that
15 you had satisfied?

16 A I don't remember answering that
17 question. I don't remember answering in that
18 way. Counsel may have prepared those with me.
19 I don't remember it at all.

20 Q Well, what requirements did TD have?

21 A I never knew whatever their
22 requirements would be.

23 Q Did you think it's accurate to say as you
24 did in response to Interrogatory Number 15 that,
25 "You would have been able to sell Matlack Drive

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1 that?

2 A It seems to be close to two million
3 dollars.

4 Q And is that taking into account the
5 mortgage payments that you have not been making?

6 A The mortgage payments that I have not
7 been making would not have been -- would not
8 have been my obligation. As -- as is reality, I
9 would have taken the cash from the sale and
10 lived in a property mortgage free. Your client
11 cannot claim credit for mortgage payments that
12 they caused the debt to run up against me when I
13 would have otherwise lived mortgage free. They
14 caused the fact that this debt still rings month
15 to month to month on me. It's an obligation.

16 Q And could you not have mitigated your
17 damages at various points throughout the
18 process? You could have brought the mortgage
19 current and you didn't, right?

20 A Bringing the mortgage current does not
21 mitigate my damage. It just transfers it from a
22 liability that accrues to a cash payment that I
23 would seek a refund for.

24 Q In June of 2008 you had the ability to
25 bring the mortgage current, didn't you?

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1 A Yes.

2 Q And certainly in November of 2008 when
3 Mr. Cooper made his payment, you definitely had
4 the ability to bring the mortgage current at
5 that point, right?

6 A That's correct.

7 Q Your wife didn't want to do that, did she?

8 A Say that again?

9 Q Your wife did not want to bring the
10 mortgage current, did she?

11 A Because that did not solve the
12 impediment to selling the property.

13 Q Can you answer the question?

14 A I guess she didn't. I can't remember
15 for sure. I think you asked me that earlier and
16 I can't say if she did or did not.

17 Q Well, did you want to bring it current?

18 A Not without solving the impediment of
19 the foreclosure and the lis pendens relating to
20 it.

21 MS. HAGER: Let's go off the record.

22

23 * * *

24 (Whereupon, a brief recess was taken.)

25 * * *